IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.57 OF 2007

IN

WRIT PETITION NO.8259 OF 2006

M/s.Anuraj Sugars Limited ...Petitioners

Versus

Shri D.B.Boralkar & Anr. ...Respondents

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Mr.R.G.Ketkar for Petitioners.

Mr.R.V.Govilkar for Respondent No.1.

Mr.V.S.Gokhale for Respondent No.2.

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CORAM: A.M.KHANWILKAR, J.

FEBRUARY 20, 2007.

P.C.

1. Heard Counsel for the parties.

2. Twofold grievance is made before this Court. The first grievance is that instead of making inquiry through concerned Officer, the Pollution Control Board proceeded to appoint

Committee who made the enquiry and submitted its report on the basis of which, the Officer proceeded to take decision in the matter. It is argued that from the observations in Paragraphs 9 and 11 of the Judgement of this Court dated 29th January 2007, it was amply clear that the Pollution Control Board was under obligation to direct the concerned Officer to visit the site to ascertain the fact situation and then proceed to take decision after considering the material placed by the appropriate representative of the Villagers or the Surpanch. Besides, it is argued that it is the Officer who is responsible to discharge the function of visiting the site on submission of the application, in terms of Rule 30. For the aforesaid reasons, contends learned Counsel for the Petitioners that it is a clear case of wilful disobedience of the direction issued by this Court on 29th January 2007.

3. I am not inclined to accept this submission. Assuming that the Pollution Control Board acted excessively in appointing Committee purported to be of independent persons and technically qualified experts to inspect the

position, that does not in any way affect the spirit of the order passed by the Division Bench of this Court. The Pollution Control Board having regard to the controversy involved, thought it appropriate to invite independent opinion of the technical experts by appointing such Committee. It is nobody's case that the Committee took decision in the matter. Ultimately, it is the concerned Officer who has taken decision on the basis of the report submitted by the Committee and also taking into account the material submitted by the appropriate representative of the Villagers or the Surpanch. If the Petitioners are aggrieved by the said decision, the Petitioners will have to take recourse to appropriate remedy, as may be advised.

4. In my opinion, this is not a case of wilful disobedience of the order of the Court so as to initiate contempt action against the Respondents.

5. The second grievance made is that in terms of observations in Para 11 of the order, the Officer was required to take decision within two

weeks from 29th January 2007. The decision however, has since been taken which has been communicated to the Petitioners today. Indeed, there is delay of few days in taking the decision. However, in the fact situation of the present case, it is not possible to assume that the delay is wilful delay so as to overreach the directions of the Court. On the other hand, it appears that the Board appointed independent Committee who submitted its report and on which basis, the Officer proceeded to take necessary decision. Obviously, time consumed in this process was bonafide and not intentional.

6. Accordingly, there is no substance in the Petition. Petition disposed of with liberty to the Petitioners to pursue such other remedy as may be permissible in law. All questions in that behalf are left open. Reply affidavit of Respondent No.1 be filed in the Registry.

A.M.KHANWILKAR, J.